

Nebraska Judicial Ethics Advisory Committee

Opinion No. 89-6

A judge has been asked to perform a simulated marriage ceremony in Nebraska for the benefit of family living here. The couple has already been legally married in another state. The judge has requested an opinion of the Nebraska Judicial Ethics Advisory Committee as to whether this would constitute conduct in violation of the Canons of Judicial Conduct.

In Nebraska, as in most states, a judge or magistrate is authorized to perform civil marriage ceremonies. Neb. Rev. Stat. § 42-108 (Reissue 1988).

In performing a simulated marriage, a judge would not be doing an act required or authorized to be done as a part of his or her judicial duties. The people attending the ceremony, however, would surely receive the impression that this ceremony was somehow made official by a judge taking part. This, of course, is the impression that is wanted; otherwise, why ask a judge to perform the ceremony. We believe that a judge, who takes part in such a ceremony, would lend the prestige of the official office to the occasion in violation of that part of Canon 2B which states: "A judge should not lend the prestige of his or her office to advance the private interest of others. . . ."

We also think that this conduct would compromise the integrity of the judge's office in violation of that part of Canon 1 which states: "A judge should participate in establishing, maintaining and enforcing and should observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved."

Even if the judge announces that the ceremony was not the real thing, the ethical problem would still exist, as he or she would still be identified as a member of the judiciary.

While this situation probably does not involve a serious ethical problem, it is the opinion of the committee that the judge should not take part in this simulated marriage ceremony.

For the Committee,

From the Nebraska Judges Ethics Advisory Committee

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